

United States District Court

EASTERN DISTRICT OF NORTH CAROLINA

WESTERN DIVISION

NO. 5:10-CV-166-D

MELISSA MYERS,

Plaintiff,

v.

SESSOMS & ROGERS, P.A., LEE C. ROGERS,

and LVNV FUNDING, LLC.,

Defendants.

ORDER FOR DISCOVERY PLAN

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, the Court will enter a scheduling order in this case. **The Rule 26(f) meeting must occur by July 14, 2010.** The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference and for attempting in good faith to agree on the proposed discovery plan. **The discovery plan must be submitted to the Court within fourteen (14) days after the 26(f) meeting.**

Please confer with opposing counsel and present to the court a discovery plan in accordance with Form 52. Pursuant to Rule 16(b), the planning meeting required by F.R.Civ.P.26(f) and the discovery plan contemplated by this request are a mandatory part of the process of formulating a scheduling order. If counsel cannot agree on a discovery plan, please submit your respective positions to The Clerk of Court, and the Court will resolve the disputed issues. Following court approval, modifications of the scheduling order will be allowed only by motion for good cause shown.

Mandatory initial disclosures must be made within fourteen (14) days after the Rule 26(f) conference unless (1) a different time is set by stipulation of the parties or court order, or (2) a party objects during the 26(f) conference and states the objection and the response thereto in the discovery plan. Absent a stipulation or court order, any party first served or otherwise joined after the 26(f) conference must make these disclosures within thirty (30) days after being served or joined. Failure to disclose information required by Rule 26(a) or 26(c)(1) may subject the offending party or parties to sanctions pursuant to Rule 37, F.R.Civ.P.

Note that Local Rule 7.1 requires that all motions (except those relating to the admissibility of evidence at trial) must be filed within 30 days after the conclusion of discovery. Untimely motions may be summarily denied. Also note that cases are currently being docketed for trial 60 to 90 days after discovery expires, with a final pre-trial conference scheduled approximately two weeks prior to trial.

This district now mandates, pursuant to Local ADR Rule 101, for civil cases in specified categories. Refer to Local ADR Rule 101.1a and other relevant rules to determine the applicability of the mediation requirement to this case. **The parties in cases subject to mandatory mediation must discuss mediation plans at the 26(f) conference and report their plans in the discovery plan, pursuant to Local ADR Rule 101.1a(b).**

SO ORDERED THIS 14th day of June 2010,

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/s/ DENNIS JAVARONE
Clerk of Court

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
_____ DIVISION

) NO. _____
)
)
)
) **DISCOVERY PLAN**
) (Form 52)
)
)

1. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on _____ (date) at _____
(place) and was attended by:

_____ (name) for plaintiff(s)
_____ (name) for defendant(s) (Party name)
_____ (name) for defendant(s) (Party name)

2. **Pre-Discovery Disclosures.** The parties [have exchanged] [will exchange] by _____ (date)
the information required by [Fed. R. Civ. P. 26(a)(1)] [local rule _____].

3. **Discovery Plan.** The parties jointly propose to the court the following discovery plan:
[Use separate paragraphs or subparagraphs as necessary if parties disagree.]

Discovery will be needed on the following subjects:

_____ (brief description of subjects on which discovery will be needed)
_____.

Disclosure or discovery of electronically stored information should be handled as follows:

_____ (brief description of parties' proposal)
_____.

_____ The parties have agreed to an order regarding claims of privilege or of protection as trial
preparation material asserted after production, as follows: (brief description of provisions of
proposed order)

All discovery commenced in time to be completed by (date). [Discovery on (issue for early discovery) to be completed by (date).]

Maximum of interrogatories by each party to any other party. [Responses due days after service.]

Maximum of requests for admission by each party to any other party. [Responses due days after service.]

Maximum of depositions by plaintiff(s) and by defendant(s).

Each deposition [other than of] limited to maximum of hours unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due:
from plaintiff(s) by (date) from defendant(s) by (date)

Supplementations under Rule 26(e) due (times(s) or interval(s)).

4. **Other Items.** [Use separate paragraphs or subparagraphs as necessary if parties disagree.]

The parties [request] [do not request] a conference with the court before the entry of the scheduling order.

The parties request a pretrial conference in (month and year).

Plaintiff(s) should be allowed until (date) to join additional parties and until (date) to amend the pleadings.

Defendant(s) should be allowed until (date) to join additional parties and until (date) to amend the pleadings.

All potentially dispositive motions should be filed by (date).

Settlement [is likely] [is unlikely] [cannot be evaluated prior to (date)] [may be enhanced by use of the following alternative dispute resolution procedure:].

Final lists of witnesses and exhibits under Rule 26(a)(3) should be due from plaintiff(s) (date) from defendant(s) by (date).

_____ Parties should have _____ days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

The case should be ready for trial by (date) [and at this time is expected to take approximately (length of time) .

Other matters. _____

Date: _____

Attorney for plaintiff(s)

Attorney for defendant(s)

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